

SUPERIOR COURT
of the
STATE OF DELAWARE

John E. Babiarz, Jr.
Judge

New Castle County Courthouse
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Wilmington, Delaware 19801-3733
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May 31, 2006

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RE: *State of Delaware v. Jerome Sullins*
Motion for New Trial - Denied
I.D. No. 0405017780

Dear Counsel:

Defendant has moved for a new trial alleging error on the part of the Court in admitting the testimony of a probation officer during the State's rebuttal case. In the defense case, the defendant presented testimony that three individuals were living in the basement of his residence where illegal drugs were found. The State in its rebuttal called the probation officer to establish that the defendant was obliged to tell her the names of all persons residing with him and that he did not name any of those individuals. Defense counsel objected under D.R.E. 403 asserting that the danger of unfair prejudice substantially outweighed they relevance of this testimony. That objection was overruled and the Court, on further reflection, considers that ruling to be correct. The evidence was highly relevant and the

prejudice to the defendant was neither substantial nor unfair. To the extent that there was prejudice it was mitigated by an instruction given by the Court to the effect that the jury should not consider the defendant's probationary status as evidence of guilt.

Defendant now asserts Rule 404(b) as a further objection. However, that objection was not lodged at trial and even now the defendant fails to state what prongs of the Getz Test were not met.

Finally, defendant claims that the State improperly coached the probation officer prior to her testimony. This is based on an affidavit of some of defendant's friends who overheard part of the conversation between the probation officer and the prosecutor. That affidavit demonstrates nothing more than that the prosecutor was properly preparing his witness for trial.

The motion for new trial is ***Denied. IT IS SO ORDERED.***

Very truly yours,

Judge John E. Babiarz, Jr.

JEB,Jr./bjw
Original to Prothonotary
cc: Jerome Sullins